HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1317 of 2005 (M/S)

1. Krishan Pal Singh S/o Shri Jili Singh
2. Kali Ram S/O Sri Neta Singh
3. Kalyan S/o Sri Neta Singh
   All R/o Village-Thithki Kawadpur
   Pargana- Manglaur, Tehsil- Roorkee,
   District- Haridwar. ..... Petitioners

Vs.

1. Deputy Director of Consolidation/ Additional Collector Haridwar.
2. Bhanwar Singh S/o Sri Data Ram,
   Pargana- Manglaur, Tehsil-Roorkee,
   District- Haridwar.
3. Gram Sabha Village-Thithiki Kawadpur
   Pargana- Manglaur, Tehsil-Roorkee,
   District- Haridwar through its Gram Pardhan
4. State of Uttaranchal through Collector Haridwar.

.....Respondents.

Sri Rajendra Singh learned counsel for the petitioner.
Sri Nand Prasad learned Standing Counsel for the State.

Dated: 27-03-2006

Hon'ble B.S. Verma, J.

Heard Sri Rajendra Singh learned counsel for the petitioner and Sri Nand Prasad learned Standing counsel for the State.

The present writ petition has been filed by the petitioner to issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 10-09-2004 passed by the respondent No. 1 in leading Revision No. 414 of 2003- 04 Bhanwar Singh Vs. Krishna Pal and others and 430 of 03-04 and 440 of 03-04 U/s 48 of the U.P. Consolidation of Holdings Act, regarding Mauza Thithki Kawadpur, Pargana Manglaur, Tehsil Roorkee, District- Haridwar (Annexure-8) to the writ Petition.

By the impugned order the Deputy Director Consolidation/Upper Collector, Haridwar allowed the revisions to set aside the order passed by the Settlement Officer Consolidation as well as Consolidation Officer dated 1.8.2003 and dated 29.11.1998 and remanded the case for decision after making spot inspection and hearing both the parties and after giving an opportunity for adducing evidence afresh.

The main ground for remand was that a spot inspection was not made by the Consolidation Officer as well as by the appellate court. By the Consolidation officer vide his order dated 29.11.1998, the area of Gata No. 102 and 104 were corrected and order to be recorded of Gata No. 102 instead of settlement area 1.9565 be recorded to 2.1265 hectare and regarding Gate No. 104 instead of settlement area 2.8651 be recorded as 2.9451. The petitioner did not filed the measurement report on which basis the Consolidation officer had ordered that the area be corrected and the said increased area on spot be recorded. Accordingly as shown in settlement and on spot. The operative portion on the order of Consolidation Officer is not clear whether he recorded settlement area or area according to the spot. Learned Deputy Director of Consolidation did not commit any manifest error of law in remanding the case for fresh decision after spot inspection and after hearing both the parties.

Since the case is remanded for fresh decision. The concerned Consolidation Officer is directed to decide the case after spot inspection preferably within a period of three months from the date of production for the certified copy of the order by the parties.

With the said observation, the writ petition is dismissed.

(B.S.Verma, J.)

Dated:- 27-3-2006
M.K.